

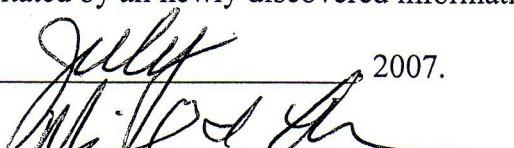
3. Respondent's articulated non-discriminatory reason is that it discharged Complainant for committing time card fraud in that she reported working hours that she did not work.

4. The Department's investigation is incomplete and further investigation is needed to determine whether Respondent discharged Complainant because of her religion. Respondent articulates that managers have to work 45 hours to be considered "full-time." In its Reply, Respondent further articulates that it discovered that Complainant falsely reported on her timecard that she worked 16 hours on January 2, 2006, when the store was open for approximately 11 hours and that Complainant falsely reported that she worked on April 29, 2006. In her Surreply, Complainant alleges that she was paid an annual salary and not an hourly wage. Complainant further alleges that she worked from home which are included as her hours worked on her timecard. It is unclear how Complainant committed timecard fraud if she was a salaried Store Manager. Complainant alleges that Respondent knew what was her religion because of the clothes she wore to the workplace. It is unclear whether the named comparatives all wore clothes that suggested that their religion was not Islam: Adam Marcus, Keisha Anderson, Crystal Bunker, Matias Drago, and Elena Fleck. The Department must determine: 1) whether Complainant was an hourly or salaried employee and if she is a salaried employee, how she can commit timecard fraud; 2) whether Complainant committed timecard fraud; and 3) whether the above named comparatives wore clothing or garb that suggested that their religion was not Islam. The Department must further determine whether there is substantial evidence that Respondent discharged her because of her religion.

5. Therefore, pursuant to Section 2520.587 of the Department's Rules and Regulations, the dismissal of Complainant's charge is hereby vacated and Complainant's charge is remanded to the Department's Charge Processing Division for further investigation, including, the items detailed above, and additional analysis as necessitated by all newly discovered information.

ENTERED THIS 23rd DAY OF

2007.



Michael I. Lieberman  
Supervising Attorney  
Chief Legal Counsel Designee